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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 NITHYA VINAYAGAM,

7 Plaintiff,

8 v.

9 UNITED STATES DEPARTMENT OF
10 LABOR ADMINISTRATIVE REVIEW
BOARD, et al.,

11 Defendants.
12

Case No. 2:18-cv-01206-RFB-DJA

REPORT AND RECOMMENDATION

13 The Court previously granted Plaintiff's request to proceed *in forma pauperis* and
14 screened the complaint pursuant to 28 U.S.C. § 1915. (ECF No. 7). It dismissed his First
15 Amended Complaint without prejudice for failure to state a claim on July 19, 2019 and granted
16 him leave to amend by August 19, 2019. *Id.* Plaintiff then filed a Second Amended Complaint,
17 which the Court screened and dismissed without prejudice on March 23, 2020 and granted him
18 leave to amend by April 23, 2020. (ECF No. 11). The Court stated, "**Failure to filed an**
19 **amended complaint will result in a recommendation that this case be dismissed.**" *Id.* To
20 date, the Court has not received an amended complaint or any request to extend the April 23,
21 2020 deadline for filing one.

22 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
23 prejudice.

24 **NOTICE**

25 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be
26 in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The
27 Supreme Court has held that the courts of appeal may determine that an appeal has been waived
28 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142

1 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file
2 objections within the specified time and (2) failure to properly address and brief the objectionable
3 issues waives the right to appeal the District Court's order and/or appeal factual issues from the
4 order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
5 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

6 DATED: April 27, 2020

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8 DANIEL J. ALBRECHTS
9 UNITED STATES MAGISTRATE JUDGE
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